

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SAMUEL EDWARDS,

Plaintiff,

v.

U.S. BANK, et al.,,

Defendants.

Case No. 2:09-cv-10546

HONORABLE STEPHEN J. MURPHY, III

**ORDER AFFIRMING AND ADOPTING REPORT AND RECOMMENDATION
(docket number 14), DISMISSING ACTION FOR FAILURE TO PROSECUTE.
AND DENYING AS MOOT DEFENDANTS' MOTION TO DISMISS (docket number 7)**

This is a civil action filed on February 13, 2009, in which the plaintiff alleges that the defendants willfully violated the automatic stay provision of his bankruptcy proceedings. This Court granted the plaintiff's application to proceed *in forma pauperis* and referred the action for all pretrial proceedings to Magistrate Judge Michael Hluchaniuk pursuant to 28 U.S.C. § 636.

On June 17, 2009, the defendants filed a motion to dismiss. The magistrate judge ordered the plaintiff to respond to defendants' motion to dismiss by July 20, 2009 (docket number 9). The order was served on the plaintiff at the address listed on file with the Court and set forth on the complaint, but was returned on June 30, 2009 by the United States Post Office as undeliverable. On July 7, 2009, the magistrate judge ordered the plaintiff to show cause by July 21, 2009 why the action should not be dismissed for failure to prosecute and failure to keep the Court apprised of his current address (docket number 12). The show cause order was served by the Court and there is no record of it being returned as undeliverable.

On July 30, 2009 the magistrate judge issued a Report and Recommendation (docket number 14). In the report and recommendation, the magistrate judge recommended that the Court dismiss the action with prejudice for failure to prosecute and that the Court deny the defendants' motion to dismiss as moot. The Magistrate Judge also notified the parties that any objections must be filed within ten days of service. No party has filed objections to the report and recommendations.¹

The Court's standard of review for a magistrate judge's report and recommendation depends upon whether a party files objections. If a party does not object to the report and recommendation, the Court does not need to conduct a review by any standard. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Because neither party filed timely objections to Magistrate Judge Hluchaniuk's report and recommendation, see 28 U.S.C. § 636(B)(1)(c); Fed. R. Civ. P. 6(e), this Court need not and will not conduct a review.

ACCORDINGLY, IT IS HEREBY ORDERED that the Report and Recommendation [docket number 14] is **ACCEPTED** and **ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED that this action is **DISMISSED WITH PREJUDICE** for failure to prosecute.

IT IS FURTHER ORDERED that defendants' motion to dismiss [docket number 7] is **DENIED AS MOOT**.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: October 7, 2009

¹The docket reflects that the Report and Recommendation was also returned as undeliverable. See docket number 15.

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on October 7, 2009, by electronic and/or ordinary mail.

Alissa Greer
Case Manager